

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-601 (Sub No. 1X)

PINE BELT SOUTHERN RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN LEE
AND CHAMBERS COUNTIES, AL

Decided: January 20, 2004

Pine Belt Southern Railroad Company, Inc. (PBRR), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 17.4-mile line of railroad between milepost T-322.40 at Roanoke Junction and milepost T-339.66 at Lafayette, in Lee and Chambers Counties, AL. Notice of the exemption was served and published in the Federal Register on December 22, 2003 (FR 68 71223). The exemption is scheduled to become on effective on January 21, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on December 23, 2003. In the EA, SEA indicated that the Alabama Historical Commission (SHPO) has not completed its review of the proposed abandonment. Accordingly, SEA recommends that a condition be imposed requiring PBRR to take no steps to alter the historic integrity of the right-of-way until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

SEA also indicated in the EA that the right-of-way may be suitable for other public use following abandonment. On December 15, 2003, The City of Opelika (City) filed a request for the issuance of a notice of interim trail use (NITU) for the entire line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for a public use condition under 49 U.S.C. 10905, in order to negotiate with PBRR for acquisition of the right-of-way for use as a recreational trail. The City requests that PBRR be prohibited from disposing of the corridor, other than track, ties, and signal equipment, except for public use on reasonable terms, and that PBRR be barred from removing or destroying any rail-related structures such as bridges, trestles, culverts and tunnels, for a 180-day period from the effective date of the abandonment exemption.

By letter filed January 6, 2004, PBRR states that it is unwilling to negotiate with the City for interim trail use. Because the Trails Act permits only voluntary interim trail use, the Board cannot issue a NITU in this proceeding. See Rail Abandonments—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591 (1986) (Trails).

As an alternative to interim trail use under the Trails Act, the right-of-way may be acquired for public use as a trail under 49 U.S.C. 10905. See Trails, 2 I.C.C.2d at 609.¹ To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). The City has satisfied these requirements and, therefore, a 180-day public use condition will be imposed commencing with the effective date of the exemption. The City states that it needs the full 180-day period because it has not had an opportunity to complete a trail plan or commence negotiations with PBRR. PBRR may remove tracks, ties, and signal equipment on the right-of-way, but is required to leave any trail-related structures, such as bridges, trestles, culverts and tunnels intact during that period. A public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for any interested person to acquire the right-of-way that has been found suitable for public purposes. Therefore, PBRR is not required to deal exclusively with the City, but may engage in negotiations with other interested persons.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The request for issuance of a Notice of Interim Trail Use is denied.
3. The request for imposition of a public use condition is granted, as discussed in this decision.
4. The exemption of the abandonment of the 17.4-mile segment is subject to the conditions that PBRR: (1) take no steps to alter the historic integrity of the right-of-way until completion of the section 106 process of the NHPA; and (2) keep intact the right-of-way, including bridges, trestles, culverts and tunnels (but not track, ties and signal equipment), for a period of 180 days from the January 21, 2004 effective date of exemption (until July 19, 2004), to enable any State or local government agency, or other interested person to negotiate the acquisition of the line for public use.

¹ Under the 49 U.S.C. 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are suitable for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

5. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary